

### **REMARKS**

Claims 3, 4, and 23 are now pending in this application. Claim 3 is independent. Claims 26-34 have been canceled, and no claims have been added or amended by this Amendment.

### **Anticipation Rejection Over Grebinski**

Withdrawal of the rejection of claims 3, 4, and 23 under 35 U.S.C. §102(b) as being anticipated by Grebinski (US 4,778,536) is requested.

Applicant notes that anticipation requires the disclosure, in a prior art reference, of each and every limitation as set forth in the claims.<sup>1</sup> There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. §102.<sup>2</sup> To properly anticipate a claim, the reference must teach every element of the claim.<sup>3</sup> “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”.<sup>4</sup> “The identical invention must be shown in as complete detail as is contained in the ...claim.”<sup>5</sup> In determining anticipation, no claim limitation may be ignored.<sup>6</sup>

Apparatus claims 3, 4, and 23 correspond to and completely conform to allowed method claims 1, 2, and 3 of parent application US 6,610,168, of which the present application is a divisional application.

Applicants and the Assignee submit that the present claims 3, 4, and 23 should be allowed so long as claims 1, 2, and 3 of parent application US 6,610,168 have been allowed.

Reconsideration and allowance of pending claims 3, 4, and 23 are respectfully requested.

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<sup>1</sup> *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985).

<sup>2</sup> *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 USPQ2d 1001 (Fed. Cir. 1991).

<sup>3</sup> See MPEP § 2131.

<sup>4</sup> *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

<sup>5</sup> *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

<sup>6</sup> *Pac-Tex, Inc. v. Amerace Corp.*, 14 USPQ2d 187 (Fed. Cir. 1990).

**Unpatentability Rejection over Grebinski in View of Kunze-Concewicz**

Withdrawal of the rejection of claims 26-27, 30, and 33 under 35 U.S.C. §103(a) as being unpatentable over Grebinski in view of Kunze-Concewicz (US 5,964,952) is requested. These claims have been canceled, thus rendering their rejection moot.

**Unpatentability Rejection over Grebinski in View of Kunze-Concewicz and Lo et al.**

Withdrawal of the rejection of claims 28-29 under 35 U.S.C. §103(a) as being unpatentable over Grebinski in view of Kunze-Concewicz and Lo et al. (US 6,228,753) is requested. These claims have been canceled, thus rendering their rejection moot.

**Unpatentability Rejection over Grebinski in View of Kunze-Concewicz & Franca or Vig**

Withdrawal of the rejection of claim 31 under 35 U.S.C. §103(a) as being unpatentable over Grebinski in view of Kunze-Concewicz and Franca et al. (US 6,178,973) or Vig et al. (US 4,028,135) is requested. This claim has been canceled, thus rendering its rejection moot.

**Unpatentability Rejection over Grebinski in View of Kunze-Concewicz and daCosta**

Withdrawal of the rejection of claim 32 under 35 U.S.C. §103(a) as being unpatentable over Grebinski in view of Kunze-Concewicz and daCosta et al. (US 4,403,567) is requested. This claim has been canceled, thus rendering its rejection moot.

**Unpatentability Rejection over Grebinski in View of Kunze-Concewicz and Schwartzkopf**

Withdrawal of the rejection of claim 34 under 35 U.S.C. §103(a) as being unpatentable over Grebinski in view of Kunze-Concewicz and Schwartzkopf (US 5,308,745) is requested. This claim has been canceled, thus rendering its rejection moot.

**Conclusion**

In view of the above amendment and remarks, Applicants believe that each of pending claims 3, 4, and 23 in this application is in immediate condition for allowance. An early indication of the same would be appreciated.

The Examiner is respectfully requested to enter this Amendment After Final, in that it raises no new issues, but merely places the claims in a form more clearly patentable over the references of record. In the alternative, the Examiner is respectfully requested to enter this Amendment After Final in that it reduces the issues for appeal.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number indicated below.

Although no fees are believed to be due with this Amendment, for any fees that are due, including fees for extensions of time, the Director is hereby authorized to charge any fees or credit any overpayment during the pendency of this application to CBLH Deposit Account No. 22-0185, under Order No. 21776-00052-US1 from which the undersigned is authorized to draw.

Dated: June 26, 2006

Respectfully submitted,

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